

House File 2155 - Introduced

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BY OLSON

A BILL FOR

1 An Act permitting the establishment of prearrest diversion
2 programs for certain offenders.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 905.4, Code 2016, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 12. Have the authority to establish a
4 prearrest diversion program within the judicial district.

5 Sec. 2. NEW SECTION. 905A.1 **Legislative findings.**

6 The general assembly encourages local communities and public
7 and private educational institutions to implement a prearrest
8 diversion program that affords certain persons who fulfill
9 specified intervention and community service obligations the
10 opportunity to avoid an arrest record.

11 Sec. 3. NEW SECTION. 905A.2 **Definitions.**

12 As used in this chapter:

13 1. "*Civil citation*" means a notice to report for orientation
14 at a prearrest diversion program established by a judicial
15 district.

16 2. "*Judicial district*" means a judicial district department
17 of correctional services.

18 3. "*Person*" means an individual eighteen years of age or
19 older.

20 Sec. 4. NEW SECTION. 905A.3 **Requirements.**

21 1. A person may be issued a civil citation, at the sole
22 discretion of a peace officer, in lieu of issuing a criminal
23 citation or making an arrest for a simple misdemeanor offense
24 or similar local ordinance, if the person admits to the
25 commission of the criminal offense, the person has not been
26 previously been arrested as an adult for such an offense, and a
27 prearrest diversion program has been established by the board
28 of directors of the judicial district in which the person is
29 found.

30 2. A person shall not be allowed to participate in a
31 prearrest diversion program if the criminal offense involves a
32 victim and the victim objects to the participation.

33 Sec. 5. NEW SECTION. 905A.4 **Prearrest diversion program —**
34 **intake — community service — records.**

35 1. A person who receives a civil citation shall report for

1 orientation at the time and place specified by the prearrest
2 diversion program. Orientation may include but is not
3 limited to any combination of the following: an assessment,
4 intervention, educational instruction, or a mental health or
5 substance abuse-related treatment.

6 2. After the completion of orientation, the person may
7 be required to perform the number of community service hours
8 specified by the prearrest diversion program.

9 3. If the person does not complete orientation and the
10 community service hours required within a specified time
11 period, the law enforcement agency issuing the civil citation
12 shall criminally charge the person with the criminal offense
13 that prompted the issuance of the civil citation and the
14 criminal offense shall be referred to the county attorney for
15 criminal prosecution.

16 4. *a.* If the person successfully completes the requirements
17 of the prearrest diversion program, an arrest record shall not
18 be associated with the commission of the underlying criminal
19 offense.

20 *b.* The fact of issuance of a civil citation or information
21 regarding the underlying criminal offense that prompted the
22 issuance of the civil citation shall not appear in or be
23 considered a part of a person's arrest data, correctional data,
24 or disposition data under chapter 692, upon the successful
25 completion of the requirements of a prearrest diversion
26 program.

27 *c.* The court's record, if any, of the issuance of a civil
28 citation or the underlying criminal offense that prompted the
29 issuance of the civil citation shall be expunged as defined
30 in section 907.1, upon the successful completion of the
31 requirements of a prearrest diversion program.

32 **Sec. 6. NEW SECTION. 905A.5 Criminal offenses eligible for**
33 **prearrest diversion program.**

34 The following criminal offenses or similar local ordinances
35 are eligible for a prearrest diversion program:

1 1. Consumption or intoxication in public places in
2 violation of section 123.46.

3 2. Purchase, attempt to purchase, consumption, or
4 possession by a person under legal age but eighteen years of
5 age or older in violation of section 123.47, subsections 3 and
6 4.

7 3. Possession of marijuana in violation of section 124.401,
8 subsection 5.

9 4. Possession of drug paraphernalia in violation of section
10 124.414.

11 5. Assault that does not involve domestic abuse punishable
12 under section 708.2, subsection 6.

13 6. Theft of property punishable under section 714.2,
14 subsection 5.

15 7. Trespass in violation of section 716.8, subsection 1.

16 8. Disorderly conduct in violation of section 723.4.

17 EXPLANATION

18 The inclusion of this explanation does not constitute agreement with
19 the explanation's substance by the members of the general assembly.

20 This bill relates to the establishment of prearrest
21 diversion programs for certain offenders.

22 The bill permits the board of directors of a judicial
23 district department of correctional services to establish a
24 prearrest diversion program.

25 Under the bill, the prearrest diversion of a criminal
26 offender begins with the issuance of a civil citation. The
27 bill provides that a person may be issued a civil citation,
28 at the sole discretion of a peace officer, in lieu of issuing
29 a criminal citation or making arrest for a simple misdemeanor
30 or similar local ordinance, if the person admits to the
31 commission of the criminal offense, the person has not been
32 previously been arrested as an adult for such an offense, and a
33 prearrest diversion program has been established by the board
34 of directors of the judicial district.

35 The bill prohibits the participation of a criminal offender

1 in the program if the criminal offense involves a victim and
2 the victim objects to the participation.

3 Under the bill, a person who receives a civil citation
4 shall report for orientation at the time and place specified
5 by the prearrest diversion program. The bill specifies that
6 orientation may include but is not limited to any combination
7 of the following: an assessment, intervention, educational
8 instruction, or mental health or substance abuse-related
9 treatment.

10 After completion of orientation, the person shall perform
11 the number of community service hours specified by the
12 prearrest diversion program.

13 If the person does not complete orientation and the
14 community service hours required within a specified time
15 period, the bill requires the law enforcement agency issuing
16 the civil citation to criminally charge the person with the
17 criminal offense that prompted the issuance of the civil
18 citation, and the criminal offense shall be referred to the
19 county attorney for criminal prosecution.

20 If the person successfully completes the prearrest diversion
21 program, the bill prohibits an arrest record to be associated
22 with the commission of the criminal offense that prompted the
23 issuance of the civil citation.

24 The bill further specifies that the issuance of a civil
25 citation or the underlying criminal offense that prompted
26 the issuance of the civil citation shall not appear in or be
27 considered a part of a person's arrest data, correctional data,
28 or disposition data under Code chapter 692, upon the successful
29 completion of a prearrest diversion program.

30 The bill also provides that the court's record, if any, of
31 the issuance of the civil citation or the underlying criminal
32 offense that prompted the issuance of the civil citation
33 shall be expunged as defined in Code section 907.1, upon the
34 successful completion of the prearrest diversion program.

35 The criminal offenses eligible for the issuance of a civil

1 citation under the bill include the following criminal offenses
2 or similar local ordinances: consumption or intoxication in
3 public places in violation of Code section 123.46; purchase or
4 attempt to purchase, consumption, or possession by a person
5 under legal age in violation of Code section 123.47 by a person
6 18 years of age or older; possession of marijuana in violation
7 of Code section 124.401(5); possession of drug paraphernalia in
8 violation of Code section 124.414; assault in violation of Code
9 section 708.2(6), that does not involve domestic abuse; theft
10 of property in violation of Code section 714.2(5); trespass in
11 violation of Code section 716.8(1); and disorderly conduct in
12 violation of Code section 723.4.